

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANEITA HENRY-LEE, individually and as the
ADMINISTRATRIX of the Goods, Chattels and Credits of
PETER C. A. LEE, deceased,

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY POLICE
DEPARTMENT, POLICE OFFICER JOHN
BAUMEISTER (shield # 24846), POLICE OFFICER
MICHAEL INGRAM (shield # 1727), KEVIN
ROUGHNEEN (shield # 2942), JOHN DOE 1-10 (the
fictitious names of persons yet to be identified), JMR
REST CORP., d/b/a RORY DOLAN'S RESTAURANT
BAR, CITY OF YONKERS and YONKERS POLICE
DEPARTMENT,

**ANSWER TO THE CROSS-
CLAIM OF DEFENDANT
CITY OF YONKERS BY
DEFENDANTS CITY OF
NEW YORK, BAUMEISTER,
INGRAM, AND
ROUGHNEEN**

08-CV-0089 (DC)

Defendants.

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Defendants City of New York, John Baumeister, Michael Ingram and Kevin Roughneen, by their attorney Michael A. Cardozo, Corporation Counsel of the City of New York, as and for their answer to the cross-claim asserted by the City of Yonkers and the Yonkers Police Department, respectfully allege, upon information and belief, as follows:

1. Deny the allegations set forth in paragraph "SIXTY-NINTH" of the Answer and Cross-Claim of defendant City of Yonkers and Yonkers Police Department.

FIRST AFFIRMATIVE DEFENSE

2. The Answer and Cross-Claim fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

3. The City of New York is not liable to indemnify Cross-Claim plaintiffs because any injury or damage is the result of negligence, intentional wrongdoing or recklessness on the part of Cross-Claim plaintiffs.

THIRD AFFIRMATIVE DEFENSE

4. Any injuries or damages sustained by plaintiff or plaintiff's decedent by reason of the matters alleged in the complaint were caused by or resulted from the acts or omissions of co-defendants City of Yonkers, Yonkers Police Department, JMR Rest. Corp., d/b/a Rory Dolan's Restaurant Bar, and/or others presently identified only as "John Does # 1-10," jointly and severally.

5. Accordingly, defendants City of New York, Baumeister, Ingram and Roughneen are entitled to judgment against co-defendants City of Yonkers, Yonkers Police Department, JMR Rest. Corp., d/b/a Rory Dolan's Restaurant Bar, and/or others presently identified only as "John Does # 1-10," assessing and fixing the degree to which said co-defendants' acts or omissions contributed to any injuries or damages sustained by plaintiff and apportioning in accordance therewith any damage judgment awarded to plaintiff.

WHEREFORE, defendants request judgment dismissing the cross-claim in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
April 4, 2008

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City of New York
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By: _____ /s/
Arthur G. Larkin (AL 9059)

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